IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN BENCH

AT JAIPUR

JUDGMENT

DB. CIVIL WRIT (PAROLE) NO. 5760/06

(BAJRANG LAL Vs. STATE OF RAJ. & ORS.)

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DATE OF JUDGMENT : 7th FEBRUARY , 2007.

PRESENT

HON'BLE MR. JUSTICE SHIV KUMAR SHARMA
HON'BLE MR. JUSTICE R.S. CHAUHAN

Mr. Ram Manohar Sharma for the petitioner.
Mr. M.L. Goyal, Dy. G.A. for the respondents.

BY THE COURT : (PER HON'BLE CHAUHAN J.)

Convicted for offences under Sections 302 and 201 I.P.C., having served for 8 years and 4 months and 13 days of incarceration, the petitioner hoped for a brief freedom to be given to him under the Rajasthan Prisoner (Release on Parole) Rules, 1958 (henceforth to be referred to as “the Rules of 1958”, for short). However, vide order dated 4.7.06 his hopes were dashed. Hence he has challenged the said order before this Court.

Vide judgment dated 25.3.03 the Addl. District & Sessions Judge (Fast Track) Jaipur District, Jaipur convicted the petitioner for

offence under Section 302 and 201 of the I.P.C., and sentenced him to life imprisonment. The petitioner thereafter filed a D.B. Cr. Appeal before this Court, challenging the order of the Addl. Distirct Judge (Fast Track), Jaipur District, Jaipur dated 25.3.03. However, the said appeal was dismissed by this Court vide judgment dated 21.12.05. According to his prison record, he has served 8 years, 4 months and 13 days till 30.7. 06. Since he was eligible for his second regular parole under the Rules of 1958, he applied for the same. However, because of an adverse report submitted by the Superintendent of Police, Jaipur Rural, Jaipur vide order dated 29.9.06, the Advisory Committee rejected his case. Hence, this petition before this Court.

Mr. Ram Manohar Sharma, the learned counsel for the petitioner has argued that in catena of cases repeatedly this Court had held that parole cannot be denied only on the basis of adverse report submitted by the police. Since reformative theory of punishment holds the fields, the level of reformation undergone by the prisoner during his incarceration is the most material fact. Therefore, the Advisory Committee has erred in rejecting his case on the basis of adverse report submitted by the police.

On the other hand, the learned Dy. Govt. Advocate Mr. M.L. Goyal has supported the impugned order.

We have heard both the learned counsels and have perused the impugned order.

Every one is born free. Freedom resides in the soul of each person. To be cribbed, cabined and confined within the strong walls of a prison, leads to a feeling of suffocation and restlessness. The era of dumping people in jail and forgetting about their existence is over. The new penal philosophy is not to incarcerate, but to reform the convicted prisoners. The aim of the prison administration is not just to punish, but to improve the convicted prisoner to the extent that he/she may be brought back into the society as a contributory member. It is with this aim that the Rules of 1958 were framed. Rule 13 of the Rules of 1958 clearly states that grant of parole shall be used as an occasion to inculcate good behavior among the convicted prisoner. In catena of cases, the Hon'ble Supreme Court has repeatedly pointed out that the purpose of parole is to instill good behavior, to keep the family link alive and to ensure that the convicted prisoner is brought peacefully back into the society at

large. Repeatedly this Court has also held that in order to know the change in the convicted prisoner, it is the report of the Superintendent of the Jail, which is most important. For, it is he who can inform the Advisory Committee about the change brought about in the prisoner. Therefore, an adverse police report is insignificant. Thus, the Advisory Committee was not justified in rejecting the petitioner's case on the basis of adverse police report and the report of the Social welfare Officer.

In the result, we allow this appeal and quash and set aside the order dated 4.8.06. The Superintendent of Central Jail, Jaipur is directed to release Bajranglal @ Lala S/o Shri Badri Narayan on second regular parole for 30 days provided that the petitioner submits two sureties of 30,000/- each alongwith a personal bond of the same amount to the satisfaction of the Superintendent, Central Jail, Jaipur. The petitioner is further directed to return to the Central Jail on the completion of 30 days from the date of his release from the prison. He is further directed to maintain peace and tranquility during his parole period.

(R.S. CHAUHAN) J. (SHIV KUMAR SHARMA)J.

MRG.